

REMARKS

The Applicant has received an Office Action from the Examiner in the above-referenced application. Claims 1-26, 29-50, and 52-129 are pending in the application. The Examiner has rejected all pending claims under 35 U.S.C. § 103(a) over various prior-art references. The Applicant will address the rejections as well as the amendments herein in the order set forth by the Examiner

The Examiner has rejected Claims 1, 20-30, 38, 42, 48-50, 52-59, 101-103, and 105-115 as being unpatentable over Seltzer (U.S. 5,462,295) in view of Labonte et al. (U.S. 6,871,424). The Examiner states that Seltzer discloses a boot that has a first rigidity at a point near a user's ankle and a second rigidity at lower regions of the boot. The Examiner points to FIGURES 1-15 and the text in column 6, lines 52-67 and column 9, lines 5-18. However, Seltzer does not disclose a varying rigidity as set forth in the amended claims. For example, in column 6, lines 52-67, Seltzer describes varying rigidity as being between the frame and the boot upper, not as between sections of the boot upper above the base. Furthermore, in column 9, lines 5-18, Seltzer describes the thickness of a section of the boot varying longitudinally between cuff slits for flexure of the cuff portion. The thickness decreases from back to front between the slits. Seltzer does not disclose, as in the current claims, an upper support having (1) an area of a first rigidity above and adjacent the base and (2) at least a second rigidity lower than the first rigidity at a majority of the portion of the upper support above the area of first rigidity. Seltzer simply discloses a small region of low rigidity at an ankle flexure point. The claims, in contrast, designate a portion of lower rigidity positioned above a portion of higher rigidity. The combination with Labonte et al. does not ameliorate the problem. Labonte et al. discloses an outer shell as shown in FIGURE 7 with raised abrasive-resistance portions. This outer shell is not equivalent to the "upper structural support" of the claims. It is simply the outer decorative and abrasive resistant covering. Thus, as discussed in Labonte, it is made of a homogenous thermoforming synthetic material or layers of different

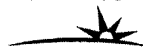
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thermoforming synthetic materials such as MOSOCA®, and the inner layer of the shell is designated as possibly being of polystyrene. This would equate more similarly to the “outer shell” set forth in the claims as amended. The upper support of Labonte is rigid insert 37 as shown in FIGURE 11. Labonte does not disclose varying rigidity of this support element.

Further, with regard to Claim 20, the combination of Seltzer and Labonte does not disclose an upper structural support formed by joining a plurality of layers of fiber composite material set and joined together with a resin. The multiple layers referred to in Labonte are directed simply toward the outer shell not the upper structural support member. This applies throughout to Claims 20-30 as well.

Claim 21 is further patentable as varying rigidity by changing the number of layers in the structural support member.

Claim 22 is further patentable over the art cited as it defines varying rigidity created by using layers of varying compositions for the upper structural support. Layers of varying compositions were used in Labonte, but not for structural support, rather simply for abrasive resistance. Such layers do not form part of the structural support member.

Claim 23 is further patentable over the references cited as claiming a hingably coupled layer partially joined with the boot toward the base and partially unjoined away from the base. The cited references do not disclose such a construction.

With respect to Claims 24-30, the Applicant is not simply setting forth differing materials using the same construction, to the contrary, the Applicant has set forth a new construction and has used materials in a different way to achieve a new result, which is a structural support member with rigidity decreasing in its higher regions.

Further, with regard to Claims 26-30, the Labonte/Seltzer combination does not disclose a further layer of an impact resistant material over the outer layer of composite material on the structural support member.



With respect to Claims 107-115, the method, as amended is not an inherent result of manufacturing of the Seltzer skate, for the reasons discussed above.

The Examiner has rejected Claims 2 and 4-9 as being unpatentable over Seltzer and Labonte et al. and further in view of Baikie (U.S. 3,934,892). These claims are all patentable for the same reasons as discussed above with regard to Claim 1. Furthermore, Baikie does not disclose or suggest the base as being molded around the inserts. As can be seen in FIGURE 7 of Baikie, which is an enlarged view of FIGURE 6, the bolt extends all the way through the base and is not molded therewith. Applicant's claimed arrangement does not include a separate retention plate as is the case in Baikie. Thus, it simplifies the construction and decreases the part count. The claimed system does so by the molding the insert directly into the base.

The Examiner has rejected Claims 3, 10, and 13-19 as being unpatentable over Seltzer and Labonte et al. further in view of Spier (U.S. 3,958,291). The Examiner states that Spier discloses a skate with a shell and a core section with foam material having a plurality of recesses 14. However, a composite shell does not surround the core as set forth in the claims. Furthermore, the "recesses" 14 of Spier are actually lugs to support the last while the foam is injected in beneath the last and the outer shell. Even with regard to the alternate embodiment shown in FIGURE 4, there is no fabric composite shell surrounding the core to form the base. Further, with regard to Claims 18 and 19, the core section is not defined or disclosed in Spier as being custom-formed nor is it bonded to an upper surface of the base.

The Examiner has rejected Claims 43-47 over Seltzer and Labonte et al. in view of Baikie. This rejection is similar to that above with regard to Claim 2 and the claims depending therefrom. Similar amendments have been made in these claims, which also overcome the references cited.

Claims 31-40, 60-69, and 116-125 have been rejected as being unpatentable over Seltzer, Labonte et al., and Meibock et al., further in view of Lin (U.S. 6,775,932). The Examiner cites Lin for disclosing a shoe with a transparent layer and graphic design. However, with regard to Claims 31-33, Lin does not disclose that the transparent layer is an impact resistant material.



Furthermore, Lin does not disclose that the graphic design is sublimated on a non-outward facing side of the layer of impact resistant material as set forth in Claim 33.

With regard to Claim 34, the combination does not suggest varying the rigidity of the upper structural support by molding using various thicknesses. Meibock et al. uses multiple layers, but does not increase the thickness of the layers to create high and low rigidity regions as set forth in the claims. With regard to Claims 35-37, the rigidity is not varied in the prior-art cited by using materials of varying rigidity for the construction of the upper structural support. In contrast, the multiple layers of Meibock et al. are simply to form a pivoting cuff. Such layers are not individually thickened in the manner suggested by the invention to increase a rigidity as the support approaches the base. With regard to Claims 39-40, the upper structural support of Meibock et al. in the claims as amended, does not have a recess for receiving the toe cap, it does not even approach the toe cap. The toe cap rests on the base 18.

With respect to method Claims 116-125, the claims as amended are not inherently performed in the manufacturing of Seltzer, for the same reasons as discussed above.

The Examiner has rejected Claims 41, 70, and 126 as being unpatentable over Seltzer and Labonte et al. further in view of Olson (U.S. 5,171, 033). These claims are patentable for reasons discussed above with respect to the claims from which they depend (Claims 1, 42, and 101). Furthermore, the references cited do not set forth an upper structural support member such as set forth in the claims that include such ventilation openings. For example, Claim 1 defines the upper structural support as being between the outer shell and the inner liner.

The Examiner has rejected Claims 71-76, 80, 97, and 128 as being unpatentable over Seltzer in view of Baikie and Labonte et al. The Examiner states that Labonte discloses a skate with increased rigidity around the ankle portion of the molded boot as shown in FIGURE 7 of Labonte et al. However, such is not the case, particularly with regard to the claims as amended, since Labonte et al. does not have an upper support member with any increased rigidity around the ankle portion. Furthermore, the Examiner's interpretation of increased rigidity around the ankle

portion is not set forth in the claims of the present application. The claims set forth an upper structural support having a more rigid region near the base and a less rigid region further up above the first region.

With regard to the skate attachment system, Applicants have already addressed this issue above with regard to molding of the inserts into place within the base.

Claims 77-79 have been rejected as being unpatentable over Seltzer, Labonte et al., and Baikie further in view of Spier. These claims are patentable for the reasons discussed above with regard to Claim 71.

The Examiner has rejected Claims 81-89 as being unpatentable over Seltzer as modified by Labonte et al. and Baikie further in view of Meibock et al.

Claim 71, from which these claims depend, has been amended to clarify that it is the contoured upper support having regions of varying rigidity. The claim also clarifies that the shaped lower surface extends continuously from the contoured upper support beneath the lower face of the base. In the case of Claims 81-89, the number of layers is increased near the base to increase the rigidity near the base. Meibock has many “layers,” as pointed out by the Examiner. However, these layers include the liner and the outer shell as well as soft foam. The layers referred to within the claims, as amended, are layers of the upper support.

Again, with regard to Claims 85-89, there has not been a simple material substitution, but a difference in construction. For example, Claim 81 requires that the upper support is formed by curing together a plurality of composite material layers. The cited references do not disclose any such construction.

The Examiner has rejected Claims 90-96, 98, and 99 as being unpatentable over Seltzer, Labonte et al., Baikie, and Meibock further in view of Lin. These claims are patentable for the reasons discussed above with regard to the claims from which they depend. Furthermore, with regard to Claim 92, the Lin reference does not disclose sublimation on a non-outward facing side



of the layer of impact resistant material. Moreover, Lin does not disclose a layer of impact resistant material.

With specific regard to Claims 95 and 96, the references do not disclose varying the fiber length or fiber concentration to increase or decrease rigidity.

Again, with respect to Claims 93 and 96, the Meibock et al. reference multiple layers referred to by the Examiner are not multiple layers of the upper support specifically.

CONCLUSION

Applicant's invention, as claimed, is directed toward varying the rigidity of a skate with various construction details and arrangements not shown in the references cited.

Applicant submits that all claims now pending in this application are in condition for allowance. The Examiner is invited to telephone applicant's attorney if any questions remain.

Respectfully submitted,

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